IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3852 OF 2005

Ramkrishan Budhai Kori .. ..Petitioner

Versus

Akhtar Hussein s/o Zahid Hussein & ors. ..Respondents

Mr. S.K.Keshwani i/b K.S.Keshwani for petitioner

NOne for respondents

CORAM : P.V.KAKADE, J.

DATE : 18TH JANUARY, 2006

P.C.:

1. The petitioner-tenant has filed this petition against the judgment and order passed by the lower appellate court dated 22.3.2005 dismissing his appeal and confirming the judgment and order passed by the trial court dated 22.12.2000 dismissing his suit for eviction filed against the defendants under Section 13(1)(g) of the Bombay Rent Act.

2. Heard the learned counsel for both the parties. Perused the record.

3. The plaintiff came with the case that he is the owner of the suit premises admeasuring 10 x 12 ft. with full loft known as Ramkishan Kori House, Near Jusa Juthewala, Dharavi, Bombay, which was rented out by him to one Zahid Hussain on monthly rent of Rs.150/=. The said tenant has died and the present defendants are his heirs, who have become joint tenants or co-tenants. The defendants, however, were not paying the rent for last three years. It was further case of the petitioner-plaintiff that he required the suit premises bonafide and reasonably for his own use and occupation and as such suit came to be filed.

. The defendants contested the suit, inter alia, denying the allegations made by the plaintiff and sought dismissal of the suit.

4. The trial court after hearing both the parties and on the basis of available evidence came to the conclusion that the plaintiff has failed to prove any of his allegations. It was further held that the suit was not

maintainable in law and came to be dismissed.

. The appeal was carried to the lower appellate court, who after hearing both the parties concurred with the findings recorded by the trial court and dismissed the appeal. Hence the present Petition.

5. At the outset, it may be noted, it is an admitted as well as evident position, that the entire relevant documentary evidence, which the plaintiff had, was burnt in fire and therefore, he could not produce the same. It is also evident that no attempt was made to reconstruct the documentary evidence and as such the plaintiff's entire case was discarded by both the courts below for the ground that there was no evidence except for his bare word of his own.

6. Therefore, on perusal of the judgements of both the courts below, I am satisfied that the concurrent findings recorded by both the courts appear to be just, legal and proper, and therefore, no interference is required by virtue of Article 227 of the Constitution of India.

7. In the result the petition stands dismissed in limine with no order as to costs.